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BOOK REVIEWS.

ORVILLE W. WOOD, *Editor-in-Charge.*

LEGISLATIVE METHODS IN THE PERIOD BEFORE 1825. By RALPH VOLNEY HARLOW. New Haven: YALE UNIVERSITY PRESS. 1917. pp. xii, 269.

The author of this volume has contributed an interesting chapter to American political and legal history at the point where politics inevitably meets and merges into law. Seeking the substance of the legislative process rather than its appearances, he naturally lays chief emphasis upon political practices. The first seven chapters are devoted to a study of legislative methods in the colonies and states from 1750 to 1790. The remaining six chapters are concerned with the evolution of legislative practices in Congress from 1789 to 1825. Manifestly, the work would have been more symmetrical had the author continued his study of state legislative methods through this latter period also. In the first part of the work, the author shows in interesting fashion the practices by which colonial assemblies established their supremacy over governors and councils in the making of laws. In discussing the transition from colony to commonwealth, he makes the important observation (p. 63) that, while in theory the governors of states had less authority than their colonial predecessors, they actually enjoyed just as much and in some cases far greater power than had been formerly wielded by the executive. This, however, is wholly at variance with the commonly accepted notion concerning the powers of our early state governors; and it is somewhat regrettable that the author did not develop his theme with more specific reference to this point.

In the light of the modern movement for executive leadership in legislation, and especially for the executive budget, chief interest in Dr. Harlow's study will center in his exposition of the enormously important part that was played in the beginning by the President and the members of his cabinet in matters legislative. Indeed, it seems clear that something closely approximating a parliamentary system of government came very near to realization during the early years of our history, in spite of the fact that the doctrine of the separation of powers was the apparent cornerstone of the Constitution. The author shows how the movement in this direction was ultimately arrested. This may have been fortunate for the preservation of the letter and spirit of the Constitution; but there are many today who will regret that this earlier system of executive influence and control in the making of laws disappeared from our institutional practices.

Howard Lee McBain.

THE LAW OF EMINENT DOMAIN. By PHILIP NICHOLS. Albany: MATTHEW BENDER & COMPANY. 1917. pp. ccliii, 1-720, xi, 721-1577.

It must take a lot of work to find twenty thousand cases on eminent domain and squeeze the juice out of them, even with the help of digests and headnotes. A man who has done this ought not to be blamed if he is too tired to put much mental strength into thinking hard about the writing that follows the process of extraction. It would be unreasonable to expect much nice discrimination between the

decisions or criticism of the reasoning of the opinions. Still less should we demand careful consideration of the ways in which the law might be improved. We should welcome the juice as it comes from the press, much as we might prefer to have it exposed to fermentation.

If a law school teacher who goes over the same courses year after year, who gives only six or eight lectures a week, and who enjoys a three months' summer vacation, can as a rule write only from zero to five articles a year, how do busy practitioners write the voluminous law books that appear so persistently? One answer is that the text writers usually content themselves with a temperate catalogue of the results reached by the courts, and energetically refrain from the more difficult and time-consuming work exemplified by the creditable law review article. The well settled matters are set forth abundantly, and striking variations are noted; but the hard points are slurred over, and there is rigorous economy in analysis and criticism.

In spite of such obvious limitations, the commercial law book thrives, and by the box-office test we must assume that it fills a genuine want. Lawyers buy it and courts cite it. But what fun there can be in compiling it is more than I can fathom. And I am always curious to know just how the work is done. I wish the writers would tell us in their prefaces how many of the thousands of cases cited have been really read, how much of the work was done by a stenographer, and how many hours of genuine, puzzled thought were spent in the writing. Authors might lighten the work of reviewers by pointing out the thoughtful sections in bold-faced type in the table of contents. Thus the labor of turning the pages would be lessened. In the works of such men as Dillon, Wigmore, and Piggott, the stamp of an able and active mind is on every page. But the leaves of most law books must be turned for some time before they yield anything more than information.

I have turned a good many of Mr. Nichols' pages, and some of them I have read. The book seems to me a careful and fairly exhaustive compilation. In the spots where I have tested it, not all the references in the footnotes support the statement in the text; but none of them contradict it, and the statements are correct. The classification is excellent. On the whole the book appeals to me as a superior work of its kind. On many matters it will save the inquirer from a wearisome search of the digests. It will be a great help to those in need of orientation before they enter on the special inquiry which their projected brief calls for. I have come across nothing that is misleading or confused. Judged by the only standards which it is fair to apply, Mr. Nichols' performance is highly creditable. But I should not think of turning to him for refreshment, for light on legal methods, for helpful appraisement of the respective merits of competing social policies, or for a number of other things that tempt me to read many law review articles, even when the topics they deal with are not ones in which I have any especial interest.

Thomas Reed Powell.

HISTORY OF ECONOMIC LEGISLATION IN IOWA. By IVAN L. POLLOCK. Iowa City, Iowa: STATE HISTORICAL SOCIETY. 1918. pp. x, 386.

This volume in the Iowa Economic History Series gives a general outline, past and present, of the enacted legislative measures of the State, in such fields as transportation, insurance, banking, conserva-